

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE PROCEDURES DIVISION**

**CHAPTER 1240-5-9
RECONSIDERATION**

TABLE OF CONTENTS

1240-5-9-.01	Notice of Right to a Petition for Reconsideration and/or Appeal of the Initial Order	1240-5-9-.03	Effect on the Final Order
		1240-5-9-.04	Grounds for Reconsideration
1240-5-9-.02	Notice of Right to a Petition for Reconsideration of a Final Order	1240-5-9-.05	Administrative Recourse When Aggrieved By Final Order

1240-5-9-.01 NOTICE OF RIGHT TO A PETITION FOR RECONSIDERATION AND/OR APPEAL OF THE INITIAL ORDER. Written notice of the right to Petition for Reconsideration and/or appeal is to accompany the initial order mailed to the parties. A petition for appeal from an initial order must be filed with the Commissioner or his/her designated representative within ten (10) days after entry of an initial order. Also, any party, within ten (10) days after entry of an initial order, may file a Petition for Reconsideration with the Administrative Judge/Hearing Officer stating the specific grounds upon which relief is requested. If an initial order is subject to both a timely Petition for Reconsideration and appeal, the petition for reconsideration shall be disposed of first; and a new ten (10) day period shall start to run upon disposition of the Petition for Reconsideration.

Authority: TCA §4-5-317. Administrative History: Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-9-.02 NOTICE OF RIGHT TO A PETITION FOR RECONSIDERATION OF A FINAL ORDER. Written notice of the right to petition for reconsideration of the final order is to accompany the final order to the parties. Any party who feels aggrieved by a final order, may within ten (10) days following the date of the order, file a written petition for reconsideration which shall specify in detail the reasons for the request.

Authority: TCA §4-5-317. Administrative History: Original rule filed December 17, 1982; effective March 16, 1983.

1240-5-9-.03 EFFECT ON THE FINAL ORDER. The filing of a petition for reconsideration of the final order shall not supersede or delay the effective date of the final order and said order shall take effect on the date entered by the agency and shall continue in effect until such petition shall be granted or until said order shall be superseded, modified, or set aside in a manner provided by law. However, if a change affecting the recipient's benefits occurs while the reconsideration is pending, action to implement that change will not be delayed pending the decision.

Authority: TCA §4-5-318. Administrative History: Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-9-.04 GROUNDS FOR RECONSIDERATION

- (1) The Administrative Judge/Hearing Officer or the Commissioner or his/her designated representative, who rendered the initial or final order, which is the subject of the petition, shall, within twenty (20) days of receiving the petition, enter a written order either denying the petition; granting the petition and setting the matter for further proceedings; or granting the petition and issuing a new order, initial or final. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied at the expiration of the twenty (20) day period.

(Rule 1240-5-9-.04, continued)

- (2) An order granting the petition and setting the matter for further proceedings shall state the extent and scope of the proceedings which shall be limited to argument upon the existing record; and no new evidence shall be introduced, unless the party proposing such evidence shows good cause for his/her failure to introduce the evidence in the original proceeding.

Authority: TCA §4-5-317. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-9-.05 ADMINISTRATIVE RECOURSE WHEN AGGRIEVED BY FINAL ORDER. When an individual being provided Vocational Rehabilitation Services under an Individualized Written Rehabilitation Program (IWRP) is dissatisfied with the final decision resulting from the Fair Hearing, the individual may request the Secretary of Education to review the decision. When this request is made, the Secretary or the Secretary's designee reviews the decision and makes recommendations to the Assistant Commissioner of Rehabilitation Services concerning action to be taken to resolve the issue and dispose of the matter. Within sixty (60) days of receiving these recommendations, the Assistant Commissioner advises the handicapped individual and the Secretary of the final disposition of the matter.

Authority: TCA §4-5-322; 34 CFR 361.48. **Administrative History:** Original rule filed January 20, 1984; effective February 19, 1984.